

REMARKS

This paper is responsive to the Office Action of October 15, 2008. Reexamination and reconsideration of the application are respectfully requested.

The Office Action

Claims 1, 2, 5, and 8 stand rejected under 35 USC §102(b) as being anticipated by van de Bergh et al. (US Patent No. 5,068,515).

Claim 3 stands rejected under 35 USC §103(a) as being unpatentable over van de Bergh et al. in view of Segal (US Patent No. 6,033,431).

Claims 4, 8, and 9 stand rejected under 35 USC §103(a) as being unpatentable over van de Bergh et al. in view of Levy et al. (US Patent No. 6,100,290).

Claim 6 stands rejected under 35 USC §103(a) as being unpatentable over van de Bergh et al. in view of Narciso, Jr. et al. (US Patent No. 5,231,684).

Claim 7 stands rejected under 35 USC §103(a) as being unpatentable over van de Bergh et al. in view of the Physical Optics Corporation reference.

Claims 10 and 11 stand rejected under 35 USC §103(a) as being unpatentable over van de Bergh et al. in view of Wynne et al. (US Patent No. 6,165,170).

The Claims of the Present Application Distinguish Over the Cited References

Claim 1 recites a laser generating means for generating a laser beam. The laser generating means has an apparent source size. An homogenising means modifies the laser beam by adjusting the apparent source size of said the laser beam. A laser safety classification of the laser is modified as a function of the apparent source size.

Van de Bergh et al. ("Bergh") discloses an apparatus for homogenizing the non-homogeneous light distribution of a laser beam. The Examiner states Bergh includes focusing optics 4 (referred to by Bergh as a microscope objective) and means for course adjustment and fine adjustment 19, 20. However, neither the microscope objective 4 nor the course/fine adjustment means 19, 20 of Bergh acts to adjust the apparent source size of the laser beam or modify a laser safety classification of the laser as a function of the apparent source size. At most, the course/fine adjustment means 19, 20 of Bergh modifies a size of an illumination area 7 (e.g., a spot size)—not the apparent source size of the laser beam. Bergh fails to disclose or suggest any modification or adjustment to the apparent source size of the laser beam or modify a laser safety classification of the laser as a function of the apparent source size. In fact, Bergh fails to even mention the claimed apparent source size.

Therefore, **claim 1**, and **claims 2–11 and 13** which depend therefrom, are patentable over Bergh.

Levy et al. was merely cited as disclosing animals given transdermal irradiation. Narciso, Jr. et al. was merely cited as disclosing a microlens attached to the treatment end of the optical fiber to distribute light from the fiber into a desired pattern or intensity distribution. The Physical Optics Corporation reference was merely cited as disclosing holographic diffusers. Wynne et al. was merely cited as disclosing a positioning system. None of Levy et al., Narciso, Jr. et al., the Physical Optics Corporation reference, or Wynne et al. overcome the deficiency of Bergh. Therefore, **claim 1**, and **claims 2–11 and 13** which depend therefrom, are patentable over Bergh in combination with any of Levy et al., Narciso, Jr. et al., the Physical Optics Corporation reference, and/or Wynne et al.

Claim 3 recites the apparent source size of the laser beam is greater than that required as a minimum condition for classification of said device as a Class II laser. The device recited in **claims 1 and 3** requires the apparent source size to be large enough for the

purpose of ensuring the device is classified as within the requirements of a Class II laser. Therefore, if the apparent source size is adjusted, the adjustment makes the apparent source size larger. The spot size is based on the apparent source size. By increasing the apparent source size (and the spot size), the recited homogenising means permits delivery of increased power while maintaining the classification of the device as a Class II laser.

As noted by the Examiner, Bergh fails to disclose the apparent source size of the laser beam being greater than that required as a minimum condition for classification of said device as a Class I laser. Class I is important for Infra-red lasers because there is no Class II for IR lasers. With visible lasers, on the other hand, a reduction from Class III or IV to Class I or II produces an eye safe laser. Bergh also fails to disclose the apparent source size of the laser beam being greater than that required as a minimum condition for classification of said device as a Class II laser. In fact, although Bergh discloses a homogenous, sharp edged beam, the reference fails to disclose or suggest modifying an apparent source size to be greater than that required as a minimum condition for classification of said device as a Class II laser, as recited in **claim 3**.

Segal discloses a diode laser irradiation system. The passage of Segal pointed to by the Examiner (i.e., col. 7, ll. 33–38) merely discloses different laser light wavelengths and output powers. However, Segal fails to disclose or even suggest modifying an apparent source size to be greater than that required as a minimum condition for classification of said device as a Class II laser, as recited in **claim 3**.

For the reasons discussed above, **claim 3** is patentable over the combination of Bergh and Segal.

Claim 14 recites a laser generator generating a laser beam having an apparent source size, and a diffuser for adjusting the apparent source size of the laser beam. A laser safety classification of the laser is adjusted as a function of the apparent source size.

For the reasons discussed above, **claim 14** and **claims 15–17**, which depend therefrom, are patentable over the cited references.

Claim 18 recites generating a laser beam having an apparent source size, diffusing the laser beam, adjusting the apparent source size of said laser beam as a function of the diffusing, and adjusting a laser safety classification of the laser as a function of the apparent source size. For the reasons discussed above, **claim 18** and **claims 19 and 20**, which depend therefrom, are patentable over the cited references.

CONCLUSION

For the foregoing reasons, it is submitted that the claims of the present application are in condition for allowance. Early notice thereof is respectfully requested.

It is believed that there is no fee associated with the filing and consideration of this response. Should the Commissioner decide that any fee or fee deficiency is due, the Commissioner is hereby authorized to charge any and all such fees, and/or credit any overpayments, incurred as a result of entering this response to Deposit Account No. 03-0172, Order No. 30276.04004.

Respectfully submitted,

CALFEE, HALTER & GRISWOLD LLP

/Brian E. Kondas/

Brian E. Kondas
Reg. No. 40,685
Customer No. 24024
(216) 622-8308